



## INTERIOR BOARD OF INDIAN APPEALS

Dewey County, South Dakota v. Aberdeen Area Director, Bureau of Indian Affairs

34 IBIA 247 (02/11/2000)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

DEWEY COUNTY, SOUTH DAKOTA,  
Appellant

v.

ACTING ABERDEEN AREA DIRECTOR,  
BUREAU OF INDIAN AFFAIRS,  
Appellee

: Order Affirming Decision  
:  
:  
:  
: Docket No. IBIA 00-8-A  
:  
:  
: February 11, 2000

This is an appeal from a September 17, 1999, decision of the Acting Aberdeen Area Director, Bureau of Indian Affairs (Acting Area Director; BIA), approving the trust acquisition of land within the Cheyenne River Sioux Reservation for Donald Gray, a member of the Cheyenne River Sioux Tribe. The land is described as the SE $\frac{1}{4}$ , sec. 27, T. 17 N., R. 23 E., Black Hills Meridian, Dewey County, South Dakota.

The original decision in this matter was issued by the Superintendent, Cheyenne River Agency, BIA, on June 30, 1999. Appellant appealed that decision to the Area Director, presenting its arguments in a Statement of Reasons. The Acting Area Director considered Appellant's arguments in rendering his decision.

In its appeal to the Board, Appellant made no arguments in its Notice of Appeal and did not file a brief.

In an earlier appeal from a similar trust acquisition decision, Appellant followed the same procedure—that is, it made arguments before the Area Director but not before the Board. The Board summarily affirmed the trust acquisition decision at issue in that case, holding that Appellant had not carried its burden of proof because, in making no arguments before the Board, it had failed to show how the Area Director erred in addressing the arguments Appellant made before her. Dewey County, South Dakota v. Aberdeen Area Director (Dewey County I), 34 IBIA 160 (1999).

The Board's decision in Dewey County I was issued on November 5, 1999, and was received by Appellant's attorney 1/ on November 19, 1999, as shown by the return receipt for Appellant's copy of the decision. Appellant's opening brief in this appeal was due Decem-

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1/ The same attorney represents Appellant in this appeal.

ber 13, 1999. Thus Appellant was aware, before its brief in this appeal was due, of the Board's decision in its earlier appeal. Yet, it still failed to file a brief in this appeal.

For the same reasons discussed in Dewey County I, the Board finds that Appellant has failed to carry its burden of proof here.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Acting Area Director's September 17, 1999, decision is affirmed.

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge